

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-EIGHTH LEGISLATURE

**FIFTIETH LEGISLATIVE DAY
MONDAY, FEBRUARY 28, 2005**

Senate Chamber

At the request of President Pro Tempore Geddes, Senator Darrington called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senator Noble, absent and formally excused by the Chair; President Pro Tempore Geddes, and Senators Cameron, Goedde, and Pearce, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Jacqui Hart, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Cameron and Goedde were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 25, 2005, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SCR 114

BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE RELATING TO CIVIC EDUCATION AND URGING THE SECRETARY OF STATE TO CONVENE A SUMMIT FOR CIVIC LEARNING, PROVIDING COMPOSITION OF THE COMMITTEE, AND REQUIRING A REPORT.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, civic learning encourages young people to be thoughtful and productive members of their communities and future leaders of the state; and

WHEREAS, it is crucial to the future health of our representative democracy that all young people be knowledgeable about democratic principles and practices, engaged in their communities and in politics, and committed to the public good; and

WHEREAS, on the National Assessment of Educational Progress in 1998, only twenty-five percent of students at the upper elementary and secondary levels were proficient in civics and government; and

WHEREAS, nationally, under twenty percent of eligible 18 to 25 year-olds voted in the 2004 presidential election; and

WHEREAS, according to "The Civic and Political Health of the Nation: A Generational Portrait" nearly one-half of 15 to 25 year-olds indicate that civic education increases their interest and participation in civic affairs; and

WHEREAS, individuals who have a clear understanding of the rights and responsibilities of citizenship in a representative democracy are more likely to exercise those rights and responsibilities to be competent and responsible citizens; and

WHEREAS, the need for civic learning in our state is crucial to the long-term social and political health of the state.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Secretary of State, with the assistance of the Department of Education, is urged to establish a committee to convene a Summit for Civic Learning at Boise State University with a goal of determining a strategy for enhancing long-term civic engagement and learning within the state, and recommending a plan for improving civic engagement and learning before the Second Regular Session of the Fifty-eighth Idaho Legislature.

BE IT FURTHER RESOLVED that the committee should be composed of a diverse range of student, teacher and administrator representatives from grades K through 12 and postsecondary education, media, civic organizations, and elected officials, and shall be facilitated by the Department of Education's Office of Civics, Service, Character and International Education.

BE IT FURTHER RESOLVED that the committee shall report its findings and recommendations for future action to the Office of the Secretary of State and the Office of the Superintendent of Public Instruction no later than December 1, 2005.

SCR 115

BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING PROGRAMS WHICH SUPPORT AND ADVANCE THE EDUCATIONAL EXPERIENCE IN INTERNATIONAL STUDY AND CULTURAL AWARENESS.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, within the lifetime of our parents and grandparents, the world we live in has changed almost beyond recognition; and

WHEREAS, rapid technological innovations will provide opportunities and challenges to tomorrow's citizens not even imagined today; and

WHEREAS, depletion of water tables, industrial production of carbon dioxide, worldwide deforestation, loss of biodiversity, rapid urbanization and loss of croplands are just a few of the significant issues which we debate in public forum today; and

WHEREAS, addressing the possibilities and promises of the future will require the best minds, best ideas, and best efforts of all of the peoples of the world; and

WHEREAS, bringing awareness through education and world experience will serve students by increasing their ability to communicate and interact with the citizens of other nations; and

WHEREAS, the support of international study and educational exchange programs and other activities advances cultural awareness and promote mutual understanding and respect for citizens of other countries; and

WHEREAS, developing and providing curriculum materials, fostering educational exchange programs, presenting other cultures, languages, economies and systems of government in an education setting will support an international perspective to world problems.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Idaho Department of Education is urged to encourage students, teachers, administrators, and educational policymakers to support and advance programs which further the educational experience in international study and cultural awareness.

SJM 107

BY JUDICIARY AND RULES COMMITTEE

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the federal death benefit for widows and children of American soldiers killed in combat is inadequate; and

WHEREAS, the Great State of Idaho, through our Governor and citizenry, honor and salute those Idahoans who serve our national defense; and

WHEREAS, the citizens of the Great State of Idaho are forever indebted to those of this country who have died in the name of freedom and human liberties worldwide; and

WHEREAS, the citizens of Idaho have compassion and genuine concern for the surviving children and spouses of Idaho citizens who serve in any component of our nation's armed services and who are killed as a result of direct combat action or combat related injuries;

WHEREAS, since it is impossible to replace a lost loved one and to adequately compensate the surviving family members, at the very least it is our solemn duty to ensure that those surviving family members are provided for in their time of need and to prepare them for future economic realities; and

WHEREAS, the Idaho Legislature has introduced and is considering legislation to provide college scholarships to state institutions for the dependents of fallen soldiers.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we respectfully request Congress to increase the death benefit for soldiers killed in combat or who die of combat related injuries and request that supplemental programs be considered by Congress and the President to assist the bereaved families of the fallen American soldiers to put the lives of the widow or widower and dependents back together.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to President George W. Bush, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

SCR 114, SCR 115, and SJM 107 were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

February 25, 2005

The JUDICIARY AND RULES Committee reports that **S 1032** and **S 1033** have been correctly enrolled.

DARRINGTON, Chairman

The Acting President announced that Enrolled **S 1032** and **S 1033** will be held at the Secretary's desk for the signature of the President, and when so signed will be transmitted to the House for the signature of the Speaker.

February 25, 2005

The STATE AFFAIRS Committee reports out **H 106, H 48, S 1125, and S 1161** with the recommendation that they do pass.

BURTENSHAW, Chairman

H 106, H 48, S 1125, and S 1161 were filed for second reading.

February 25, 2005

The JUDICIARY AND RULES Committee reports out **S 1119** with the recommendation that it do pass.

DARRINGTON, Chairman

S 1119 was filed for second reading.

February 28, 2005

The STATE AFFAIRS Committee reports out **S 1126** without recommendation.

BURTENSHAW, Chairman

S 1126 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 25, 2005

Mr. President:

I return herewith Enrolled **SCR 106** which has been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **SCR 106** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Secretary of State.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator Pearce was recorded present at this order of business.

The Acting President announced that **SCR 110** was before the Senate for final consideration.

Moved by Senator Broadsword, seconded by Senator Werk, that **SCR 110** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Geddes, Noble. Total - 2.

Total - 35.

Whereupon the Acting President declared **SCR 110** adopted, title was approved, and the resolution ordered transmitted to the House.

The Acting President announced that **SCR 113** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Davis, seconded by Senator Stennett, **SCR 113** was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

President Pro Tempore Geddes was recorded present at this order of business.

S 1163

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PODIATRY; AMENDING SECTION 54-602, IDAHO CODE, TO REVISE THE DEFINITION FOR SURGICAL TREATMENT, TO REQUIRE ADVANCED SURGICAL PROCEDURES TO BE PERFORMED IN CERTAIN HOSPITALS OR SURGICAL CENTERS, TO PROVIDE A CODE REFERENCE, TO REVISE THE DEFINITION FOR PODIATRIST AND TO MAKE TECHNICAL CHANGES.

S 1164

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO CHILDREN'S MENTAL HEALTH SERVICES; AMENDING SECTION 16-2406, IDAHO CODE, TO REFERENCE INVOLUNTARY TREATMENT ORDERS OF THE COURT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 16-2409, IDAHO CODE, TO REVISE PROVISIONS APPLICABLE TO CONVERSION FROM INVOLUNTARY TO VOLUNTARY STATUS; AMENDING SECTION 16-2415, IDAHO CODE, TO PROVIDE THAT CERTAIN DECISIONS REGARDING PLACEMENT AND SERVICES SHALL BE CONSISTENT WITH THE INDIVIDUALIZED TREATMENT PLAN APPROVED BY THE COURT; AMENDING SECTION 16-2416, IDAHO CODE, TO PROVIDE THAT AT LEAST ONE DESIGNATED EXAMINER SHALL BE A PSYCHIATRIST, LICENSED PHYSICIAN OR LICENSED PSYCHOLOGIST; AMENDING SECTION 16-2418, IDAHO CODE, TO REVISE THE CRITERIA APPLICABLE FOR INVOLUNTARY TREATMENT ORDERS AND TO MAKE TECHNICAL CHANGES; AMENDING SECTION 16-2419, IDAHO CODE, TO PROVIDE THAT CERTAIN AUTHORITY AND DECISIONS OF THE DEPARTMENT OF HEALTH AND WELFARE SHALL BE CONSISTENT WITH THE INDIVIDUALIZED TREATMENT PLAN APPROVED BY THE COURT; AMENDING SECTION 16-2423, IDAHO CODE, TO PROVIDE FOR THE ADMINISTRATION OF NECESSARY MEDICATIONS OR OTHER TREATMENTS UNDER CERTAIN CONDITIONS DURING A PERIOD OF INVOLUNTARY TREATMENT; AND AMENDING CHAPTER 24, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-2435, IDAHO CODE, TO PROVIDE FOR MENTAL HEALTH TREATMENT HEARINGS AND ORDERS.

S 1165

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO JUVENILES; AMENDING CHAPTER 5, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-511A, IDAHO CODE, TO SET FORTH PROVISIONS REQUIRING MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT FOR JUVENILES UNDER CERTAIN CIRCUMSTANCES IN PROCEEDINGS UNDER THE JUVENILE CORRECTIONS ACT OR THE CHILD PROTECTIVE ACT.

S 1166
BY JUDICIARY AND RULES COMMITTEE
 AN ACT

RELATING TO COUNTY EMPLOYEES; AMENDING CHAPTER 16, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 1-1613A, IDAHO CODE, TO PROVIDE THAT CERTAIN COUNTY OFFICIALS AND EMPLOYEES PERFORMING FUNCTIONS AND DUTIES OF DISTRICT COURTS SHALL BE CONSIDERED EMPLOYEES OF THE STATE FOR PURPOSES OF THE IDAHO TORT CLAIMS ACT AND TO DEFINE "DISTRICT COURT."

S 1167
BY STATE AFFAIRS COMMITTEE
 AN ACT

RELATING TO TRANSPORTATION PROJECT FINANCING; AMENDING SECTION 40-105, IDAHO CODE, TO DEFINE "DRAW"; AMENDING CHAPTER 1, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-108, IDAHO CODE, TO DEFINE "GARVEE"; AMENDING CHAPTER 3, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-315, IDAHO CODE, TO SET FORTH POWERS AND DUTIES OF THE IDAHO TRANSPORTATION BOARD RELATING TO FEDERALLY-FUNDED HIGHWAY PROJECT FINANCING AND TO PROVIDE SPECIFIED ROUTES AND PROJECTS FOR SELECTION BY THE BOARD; AMENDING SECTION 40-702, IDAHO CODE, TO PROVIDE THAT THE STATE HIGHWAY ACCOUNT SHALL INCLUDE CERTAIN FEDERAL SURFACE TRANSPORTATION FUNDS; AMENDING SECTION 40-707, IDAHO CODE, TO PROVIDE FOR APPROPRIATION OF MONEYS IN THE STATE HIGHWAY ACCOUNT FOR PAYMENT OF PRINCIPAL, INTEREST AND OTHER AMOUNTS REQUIRED FOR TRANSPORTATION BONDS OR NOTES, AND TO PAY ANY MATCH AS REQUIRED FOR RECEIPT OF FEDERAL FUNDS; AMENDING CHAPTER 7, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-718, IDAHO CODE, TO ESTABLISH THE GARVEE CAPITAL PROJECT FUND AND THE GARVEE DEBT SERVICE FUND; AMENDING SECTION 67-6201, IDAHO CODE, TO EXPAND THE PURPOSE OF THE IDAHO HOUSING AND FINANCE ASSOCIATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-6205, IDAHO CODE, TO DEFINE THE TERMS "MUNICIPALITY," "STATE," "STATE BODY," "TRANSPORTATION BOARD," "TRANSPORTATION DEPARTMENT" AND "TRANSPORTATION PROJECT"; AMENDING SECTION 67-6206, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS OF THE IDAHO HOUSING AND FINANCE ASSOCIATION; AMENDING SECTION 67-6210, IDAHO CODE, TO PROVIDE ADDITIONAL PROVISIONS FOR RESOLUTIONS AUTHORIZING NOTES OR BONDS OR ANY ISSUE THEREOF AND TO PROVIDE THAT THE ASSOCIATION SHALL NOT ISSUE BONDS OR NOTES TO FINANCE TRANSPORTATION PROJECTS UNLESS CERTAIN CONDITIONS ARE MET; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

S 1168
BY STATE AFFAIRS COMMITTEE
 AN ACT

RELATING TO PROSECUTING ATTORNEYS; AMENDING SECTION 59-907, IDAHO CODE, TO PROVIDE THAT AN ATTORNEY WHO HAS CONTRACTED WITH THE BOARD OF COUNTY COMMISSIONERS TO BE PROSECUTING ATTORNEY SHALL NOT BE CONSIDERED TO HOLD THE OFFICE OF PROSECUTING ATTORNEY, WITHIN THE MEANING OF SECTION 31-2601, IDAHO CODE, FOR THE COUNTY WITH WHICH THE CONTRACT EXISTS; AND DECLARING AN EMERGENCY.

S 1163, S 1164, S 1165, S 1166, S 1167, and S 1168 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1143, by Health and Welfare Committee, was read the second time at length and filed for third reading.

S 1162, by Finance Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1127 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Brandt arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the Acting President declared **S 1127** passed, title was approved, and the bill ordered transmitted to the House.

S 1112 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stennett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bunderson, Burkett, Coiner, Compton, Gannon, Kelly, Keough, Langhorst, Malepeai, Marley, McGee, McKenzie, Schroeder, Stegner, Stennett, Werk. Total - 17.

NAYS--Brandt, Broadsword, Burtenshaw, Cameron, Corder, Darrington, Davis, Geddes, Goedde, Hill, Jorgenson, Little, Lodge, Pearce, Richardson, Sweet, Williams. Total - 17.

Absent and excused--Noble. Total - 1.

Total - 35.

Less than a majority having voted in the affirmative the Acting President declared that **S 1112** had failed to pass the Senate and ordered the bill filed in the office of the Secretary of the Senate.

President Pro Tempore Geddes assumed the Chair.

S 1106 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Little arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1106** passed, title was approved, and the bill ordered transmitted to the House.

S 1114 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Werk arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1114** passed, title was approved, and the bill ordered transmitted to the House.

S 1100 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Brandt, Broadsword, Bunderson, Burkett, Burtenshaw, Cameron, Coiner, Compton, Corder, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, Marley, McGee, McKenzie, Pearce, Richardson, Schroeder, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1100** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:10 p.m. until the hour of 10 a.m., Tuesday, March 1, 2005.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary